



NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1157

RIN 3135-AA35

Procedures for Guidance Documents

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Final rule; removal of regulations.

SUMMARY: This document rescinds the National Endowment for the Arts' rule relating to the issuance of guidance documents.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Daniel Fishman, Assistant General Counsel, National Endowment for the Arts, 400 7th Street SW, Washington, DC 20506; fishmand@arts.gov; 202-682-5418. Please reference RIN 3135-AA35 in your correspondence.

SUPPLEMENTARY INFORMATION:

1. Background

On August 28, 2020, the National Endowment for the Arts (NEA) published an interim final rule governing the issuance of guidance documents entitled "Processes and Procedures for Issuing Guidance Documents" (85 FR 53186). The rule implemented the directives set forth in Executive

Order (E.O.) 13891 of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents).

E.O. 13992 of January 20, 2021 (Revocation of Certain Executive Orders Concerning Federal Regulation), revokes E.O. 13891 and directs the heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof implementing or enforcing E.O. 13891, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In accordance with E.O. 13992, the NEA is issuing this rule, which rescinds the rule published at 85 FR 53186.

2. Compliance

Administrative Procedure Act

This rule incorporates requirements of E.O. 13992 and the NEA's existing internal policy and procedures into the CFR. Therefore, in accordance with 5 U.S.C. 553, there is good cause for this rule of Agency organization, procedure, or practice, to be enacted without notice and comment. See 5 U.S.C. 553(b)(A).

Executive Order 12866

This rule is an internal rule of agency procedure and is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the NEA certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, state, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

Paperwork Reduction Act

The rule does not contain any information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have any federalism implications, as described above.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply. However, for each final guidance document issued pursuant to these regulations and adopted by the NEA, it will submit appropriate reports to Congress and the Government Accountability Office (GAO) and comply with the procedures specified by 5 U.S.C. 801.

List of Subjects in 45 CFR Part 1157

Administrative practice and procedure.

PART 1157 [REMOVED AND RESERVED]

For reasons set forth in the preamble, and under the authority of 20 U.S.C. 959, the NEA removes and reserves 45 CFR part 1157.

Dated: October 19, 2021.

Meghan Jugder,

*Support Services Specialist, Office of Administrative Services & Contracts,
National Endowment for the Arts.*

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